

**PLANNING BOARD  
CITY OF MIAMI BEACH, FLORIDA**

**PROPERTY:** 3115 and 3125 Pine Tree Drive

**FILE NO.** 1182

**IN RE:** The applicants, Sonia Kashuk and Daniel Kaner, requested a modification to a previously issued Division of Land/Lot Split, pursuant to Section 118, Article IV of the City Code. Specifically, the applicants requested to remove a condition limiting the construction of a privacy wall.

**LEGAL  
DESCRIPTION:** See Exhibit A

**MEETING DATE:** April 19, 2016

**DIVISION OF LAND/LOT SPLIT  
DRAFT ORDER**

The applicants, Sonia Kashuk and Daniel Kaner, requested a modification to a previously issued Division of Land/Lot Split, pursuant to Section 118, Article IV of the City Code. Notice of the request was given as required by law and mailed out to owners of property within a distance of 375 feet of the exterior limits of the property, upon which the application was made.

The Planning Board of the City of Miami Beach makes the following FINDINGS OF FACT, based upon the evidence, information, testimony and materials presented at the public hearing and which are part of the record for this matter:

That the property in question is located in the RS-3, Residential Single Family zoning district

That the lots that would be created are divided in such a manner that they are in compliance with the regulations of the land development regulations of the City code;

That the building site that would be created would be equal to the most common existing lot size, and of the same character as the surrounding area;

That the scale of any proposed new construction is compatible with the as-built character of the surrounding area;

That the building site that would be created would result in existing structures becoming nonconforming as they relate to setbacks and other applicable regulations of these land development regulations, but would be conforming when a variance for the resulting nonconformity is obtained from the Board of Adjustment;

That the building site that would be created is free of encroachments from abutting buildable sites;

That the proposed lot split does not adversely affects architecturally significant or historic homes;

That the public health, safety, morals, and general welfare will not be adversely affected;

That necessary safeguards will be provided for the protection of surrounding property, persons, and neighborhood values if the following conditions are met.

**IT IS THEREFORE ORDERED**, based upon the foregoing findings of fact, the evidence, information, testimony and materials presented at the public hearing, which are part of the record for this matter, and the staff report and analysis, which is adopted herein, including the staff recommendations, that the modifications to the Lot Split as requested and set forth above be GRANTED, subject to the following conditions to which the applicant has agreed: ~~strikethrough~~ indicates stricken language and underline indicates added language from the original approval.

1. Prior to the filing of the Final Order granting this Lot Split, the applicant shall provide an opinion of title evidencing that any deed restrictions, reservations or covenants applicable to the subject property do not prevent or serve as exceptions to the division or lot split as requested.
2. The owner of site B, herewith described above, shall obtain a variance from the Zoning Board of Adjustment for the rear setback of the accessory structure if it is connected to the main structure, unless the prevailing Zoning Ordinance regulations do not require such a variance.
3. The main structures on Sites A and B, (as described on attachment "1" hereto), shall remain and not be demolished; however, the applicant may do a partial demolition to avoid rear setback variances.
4. The demolition of the existing connecting structure between the aforementioned main structures shall be accomplished prior to the filing of the Final Order granting this Lot Split.
5. Each Residence shall provide underground utility connections, individual water and sewer connections, payment of any applicable impact fees and the removal and replacement of necessary sidewalk, curb and gutter.
6. The subject properties shall not be further subdivided, unless said subdivision is consistent with the prevailing Zoning Ordinance Regulations.
7. The original architectural style of each main structure shall be maintained and exterior paint color, window and door type, roofing material and exterior lighting shall remain consistent between said structures. Any deviation from this architectural/design consistency shall require approval of the Planning and Zoning Director.

- ~~8. There shall be no wall erected, or hedge planted, between the two properties (Site A and Site B) in order to maintain the visual and historic continuity of the original building site.~~
9. Landscape and site improvement plans for both properties shall be submitted for review and approval by the Planning and Zoning Director and shall be compatible in terms of materials and the type and placement of plantings.
- ~~10. These conditions of approval shall be recorded shall be recorded in the public records of Dade County for each individual property.~~
- ~~11. PROVIDED, the applicant shall take all necessary steps to have a building permit issued by the City within a period of six (6) months from the date of the approval, otherwise this Order shall become null and void, unless the time for the issuance of such permit is extended by the Planning Board. This Order does not constitute a permit, but upon presentation of this Order to the Director of the Planning and Zoning Department, a permit shall be processed in accordance with and pursuant to the ordinances of the City of Miami Beach.~~
12. The applicant and/or owner, for each lot created herein, both now and in the future, shall abide by all the documents and statements submitted with this application for Division of Land/Lot Split, as well as all conditions of this Order. The conditions of approval for this Lot Split are binding on the applicant, the property owners, and all successors in interest and assigns.
13. The Planning Board shall maintain jurisdiction of this Lot Split approval. If deemed necessary, at the request of the Planning Director, the applicant shall provide a progress report to the Board. The Board reserves the right to modify the Lot Split approval at the time of a progress report in a non-substantive manner, to impose additional conditions to address problems and to determine the timing and need for future progress reports. This Lot Split is also subject to modification or revocation under City Code Sec. 118-323.
14. This order is not severable, and if any provision or condition hereof is held void or unconstitutional in a final decision by a court of competent jurisdiction, the order shall be returned to the Board for reconsideration as to whether the order meets the criteria for approval absent the stricken provision or condition, and/or it is appropriate to modify the remaining conditions or impose new conditions.
15. The executed Order for the Division of Land/Lot Split shall be recorded in the Public Records of Miami-Dade County, Florida, at the expense of the applicant and returned to the Planning Department. No building permit, certificate of occupancy, or certificate of completion shall be issued until this requirement has been satisfied.
16. The Lot Split approval approved herein shall comply with all the aforementioned conditions of approval; non-compliance shall constitute a violation of the City Code, and shall be subject to enforcement procedures set forth in Section 114-8 of the Code and such other enforcement procedures as are permitted by law. Any failure by the applicant

to comply with the conditions of this Order shall also constitute a basis for consideration by the Planning Board for a revocation of this approval.

- 17. Nothing in this order authorizes a violation of the City Code or other applicable law, nor allows a relaxation of any requirement or standard set forth in the City Code.

Dated this \_\_\_\_\_ day of \_\_\_\_\_, 2016.

PLANNING BOARD OF THE  
CITY OF MIAMI BEACH, FLORIDA

BY: \_\_\_\_\_

Michael Belush,  
Planning and Zoning Manager  
For Chairman

STATE OF FLORIDA             )  
COUNTY OF MIAMI-DADE    )

The foregoing instrument was acknowledged before me this \_\_\_\_\_ day of \_\_\_\_\_, \_\_\_\_\_, by Michael Belush, Planning and Zoning Manager of the City of Miami Beach, Florida, a Florida Municipal Corporation, on behalf of the corporation. He is personally known to me.

\_\_\_\_\_  
Notary:

Print Name:

Notary Public, State of Florida

My Commission Expires:

Commission Number:

[NOTARIAL SEAL]

Approved As To Form:  
Legal Department    (                                     )

Filed with the Clerk of the Planning Board on \_\_\_\_\_(                                     )

**EXHIBIT A**

**3. NAME & ADDRESS OF PROPERTY** 3115 Pinetree Drive and 3125 Pinetree Drive

**LEGAL DESCRIPTION:** 3115 Pinetree Drive: FLAMINGO TERRACE SUB, PB 10-3, ALL LOT 9 & LOT 10 LESS NLY13.45FT  
BLK 6, LOT SIZE 186.550 X 157, OR 16186-2976 1193 4

3125 Pinetree Drive: FLAMINGO TERRACE SUB, PB 10-3, LOT 11 & NLY13.45FT LOT 10 BLK 6, LOT SIZE 113.45 X  
171, OR 21279-2644 052003 1